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Office of Enforcement, Compliance
and Environmental Justice (UFO)

January 25, 2016

U.S. Environmental Protection Agency
Oil Pollution Act Enforcement Program
1595 Wynkoop Street
Denver, Co. 80202
Attn: Darla Hohman

Re: National Response Center Number 1010721 and US EPA letter dated
December 1, 2015

Dear Ms. Hohman:

Ms. Hohman you will find attached the explanation and data recovered per the National Response Center Number 1010721 and the US EPA letter dated December 1, 2015.

Please be advised Dakota Plains Holding, Inc. (Dakota Plains) was not the operator of the facility at the time of the spill. World Fuels Services (WFS) and Dakota Plains had a 50/50 joint venture entity called Dakota Petroleum Transport Solutions, LLC (DPTS). WFS and Dakota Plains were co-owners of the business, while Dakota Plains was the sole owner of the real estate. WFS also maintained operational and management control of the joint venture. The joint venture was dissolved in December 2014 when Dakota Plains bought out the WFS share in the transloading company, DPTS. Dakota Plains' subsidiary, DPTS, now 100% owned by Dakota Plains remained the operator of the asset and is still the operating entity today.

Dakota Plains is confident the information provided will help you in your investigation. If additional information is need please inform Dakota Plains immediately so we can research and provide the appropriate documents, if applicable. We look forward to the pursuit of closure on this incident.

Sincerely,

Gabriel G. Claypool,
President and COO

1. **List the name, address, and telephone number of the individual answering this Request for Information (Request), and describe that individual's relationship to the Company (e.g., employee, contractor).**

Response: The following listed individuals were not a part of the original release. The individuals listed below were a part of the data collection to present specific documents in response to the recording of the National Response Center Number 1010721 and the letter from the US EPA dated December 1, 2015. World Fuels Services (WFS) and Dakota Plains Holdings, Inc. had a 50/50 joint venture entity called Dakota Petroleum Transport Solutions, LLC (DPTS). WFS and Dakota Plains were co-owners of the business, while Dakota Plains was the sole owner of the real estate. WFS also maintained operational and management control of the joint venture. The joint venture was dissolved in December 2014 when Dakota Plains bought out the WFS share in the transloading company, DPTS. Dakota Plains' subsidiary, DPTS, now 100% owned by Dakota Plains remained the operator of the asset and is still the operating entity today. TJMD, LLP is a New Town, North Dakota based contractor and was the subcontractor to DPTS at the time of the release in question.

Jim Tate - 701-389-2792 - Dakota Plains – Vice President of Operations
Gabe Claypool – 952-473-9950 Dakota Plains – President
Jim Thornton – 952-473-9950 – Dakota Plains – General Counsel
Jeff Melby – 763-277-8402 – Pinnacle Engineering, Inc. – Senior Vice President

2. **Identify the person(s) whom you wish to receive all further communication from the EPA related to this Request.**

Response: Gabe Claypool – Dakota Plains Holdings, Inc., 294 Grove Lane East Wayzata, MN. 55391 - gclaypool@dakotaplains.com – 952-473-9950

3. **For each and every Question contained herein, identify all persons consulted in preparation of the answer or response, pursuant to the Instructions in Enclosure 1.**

Response: No answer required.

4. **For each and every Question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or response or that contains information responsive to the Question and provide accurate copies of all such documents. If information or documents responsive to this Request are not in your possession, custody, or control, then please identify the person(s) from whom such information or documents may be obtained, pursuant to the Instructions in Enclosure 1.**

Response: No answer required.

5. **For the discharge of oil identified in the cover letter (NRC No. 1010721), provide the information requested in questions 6 through 36, below.**

Response: No answer required.

6. **Describe the facility from which oil or any other pollutant was discharged, indicating its location, type of operations, aggregate aboveground oil storage capacity, and, if applicable, the lease name and number.**

Response: The incident in question occurred at the Dakota Plains property in New Town, North Dakota. At the time of the incident, the property was used for the transloading (truck tanker to railcar) of North Dakota Sweet Crude Oil on four ladder tracks. There was no storage of crude oil at the property in underground or above ground storage tanks. This was a transportation-related facility for the transloading of crude oil from truck tankers to railcars.

7. **Indicate whether the Company owned the facility at the time of the discharge and whether the Company still owns the facility. Provide the Dun and Bradstreet number of the current owner(s).**

Response: Dakota Plains owned the real estate at the time of the incident, but owned 50% of the joint venture business, as described above. Following the purchase of two adjacent parcels of property to the south, Dakota Plains constructed a high-speed crude oil loadout facility consisting of double rail loop tracks, large oil storage tanks, truck unloading area, pipeline interconnections, and a railcar loadout building. The new Pioneer Terminal facility was brought on-line in January 2014. Dakota Plains retains ownership of the ladder track property. The Dun & Bradstreet number of Dakota Plains is 344864.

8. **Indicate whether the Company operated the facility at the time of the discharge and whether the Company still operates the facility. Describe the relationship between the owner and operator (e.g., employee, contractor, subcontractor, lessee), if applicable.**

Response: Prior to the time of the incident, Western Petroleum (Joint Venture Manager) had contracted the crude oil transloading operations to TJMD in August 2010. TJMD was replaced as operator with Strobel Starostka Transfer (SST) in September 2012. As noted in the response to #7, the crude oil transloading operations at this portion of the property were discontinued in January 2014 following the completion of the new facility called the Pioneer Terminal. At the time of the release in question, TJMD was the subcontractor to the DPTS joint venture managed by WFS.

9. Provide the following information for the Company as well as for any other owners(s)/operator(s) of the facility at or since the time of the discharge:

a. Name and business address of each such owner and each such operator:

Response: Property Owner and co-owner of the asset– Dakota Plains Holdings, Inc., 294 Grove Lane East, Suite 120B, Wayzata, MN 55391

Joint venture partner and manager of the DPTS operations at the time of the release – Western Petroleum, 9531 W 78th Street Eden Prairie, MN 55344, a subsidiary of World Fuel Services: 9800 West 41st Street Miami, FL 33178

Operator – TJMD, LLP, 9531 W 78th Street New Town, North Dakota 58763

Operator who replaced TJMD (Not at the facility at the time of the release) – SST, 250 S. Castle Rock Lane, Mustang, OK 73064

b. Indicate whether each such entity is or was an owner or operator (or both);

Response: See answer to 9.a. minus SST.

c. Indicate whether each owner and/or operator is a corporation, partnership, LLC, individual or other type of entity.

Response: Property owner and co-owner of the asset, Dakota Plains Holdings, Inc. is a corporation.

Asset Manager and co-owner of the joint venture Western Petroleum is a corporation, as is their parent WFS.

Contract Operator TJMD is an LLP.

d. If applicable, indicate the state in which each owner and operator was incorporated or organized, in what state(s) it was authorized to conduct business, when each entity was incorporated or organized, when it first began operating.

Response: Dakota Plains is incorporated in Nevada.

WFS is incorporated in Texas.

It is not known where TJMD was incorporated, what year it was incorporated, when it first began operating, and in what states it is authorized to do business.

e. Describe the relationship, if any, between the Company and each such owner or operator.

Response: At the time of the incident, TJMD was working as a subcontractor to DPTS.

10. Describe the type of source of the discharge (e.g., spill from a pipeline, tank, or well, etc.).

Response: The spill occurred when a railcar being transloaded with crude oil from a tanker truck was overfilled. The TJMD staff thought that the railcar had sufficient volume to hold the volume in the tanker truck of Hofmann Trucking.

11. State the time and date of the discharge and how this information was determined.

Response: See Section 1.0 of the attached report Supplemental Environmental Incident Report, Spill DPTS-22, Dakota Plains Holdings Inc. Facility, New Town, North Dakota (1/20/14), hereinafter referred to as the "DPTS-22 Report." The report is included in Attachment A.

a. State the date and time the discharge was discovered.

Response: The spill of crude oil occurred on May 4, 2012 at 9:00 p.m. according to the Environmental Incident Report which follows the cover page in the DPTS-22 Report.

b. Identify the individual who first discovered the discharge and how that individual discovered it.

Response: TJMD staff completed "TJMD Incident Reports." According to the reports, John Cuny of TJMD was the employee who was involved with the transloading. Robert Whiteowl of TJMD arrived on-site after the spill, and also completed a TJMD Incident Report. Bill Thomas of Hofmann Trucking, whose truck was being transloaded to the railcar, also completed a TJMD Incident Report. These reports are included in Attachment B.

c. State the date and time that the discharge commenced.

Response: May 4, 2012 at 9:00 p.m. See the Environmental Incident Report which follows the cover page in the DPTS-22 Report. See also the TJMD Incident Reports referenced in b.

d. State the date and time the discharge ended.

Response: As noted in the Environmental Incident Report the "Estimated Duration" was 5 minutes.

e. State the total number of days the discharge occurred.

Response: See the response to 10.d.

f. Describe the weather conditions, including temperature, precipitation, cloud cover, etc., during the duration of the discharge.

Response: The spill occurred during a heavy rain storm.

- 12. State the total quantity of fluids discharged, State the total quantity and type of oil discharged, including the chemical name, formula, and specific gravity, and how this information was determined.**

Response: As noted in the Environmental Incident Report in the DPTS-22 Report, 50 barrels were released. Note that the public version of NRC Report #1010721 says 65 barrels.

- a. Provide copies of the pertinent Material Safety Data Sheets, if available.**

Response: Dakota Plains can provide current MSDS for crude oil currently loaded. WFS would need to provide an MSDS from the period in question.

- b. State the type, total capacity and purpose of the container, tank, or equipment from which the oil was discharged.**

Response: Rail tank car, average loaded volume is 28,500 gallons, purpose of rail tank car was transportation of the crude oil to a refinery.

- c. Describe any secondary containment, or leak/spill prevention equipment for the facility and, if applicable, the quantity of the discharged material that was captured and/or retained by that equipment.**

Response: Dakota Plains does not have the records or copies of the spill prevention or containment procedures used by TJMD. See DPTS-22 report for information on efforts taken to contain and recover crude oil, and for volumes/weights of contaminated media that was recovered and appropriately disposed of off-site.

- d. Describe the basis for any calculations or approximations of the quantity of oil discharged, including all information that was considered, evaluated or relied upon in making such calculations or approximations.**

Response: Records of TJMD annotated with "65 barrels" among other information and annotations are provided in Attachment B.

- 13. State whether any other pollutant other than oil was discharged, and provide your best estimate of the total amount of each such pollutant.**

Response: Only crude oil was spilled.

- a. If the material discharged was a mixture, provide the percentages of pollutants in the mixture or solution.**

Response: Not applicable

- b. Provide a copy of each pertinent Material Safety Data Sheet, if available.**

Response: Not applicable

- c. List those substances that were discharged which are specifically listed or designated as hazardous substances in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, and the regulations promulgated thereto.

Response: Not applicable

14. Describe any spill/leak prevention or containment practices implemented at the facility used to prevent or contain the leak/spill (e.g. employee training, preventative maintenance or other preventative measures).

Response: Dakota Plains does not have the records or copies of the spill prevention or containment procedures used by TJMD.

15. Provide copies of the analyses of any samples of the discharged substance(s) collected and analyzed, and any other analyses that were conducted as part of the response to the discharge. Describe the locations from which the samples were collected and the time the samples were collected, and identify who collected the samples and the laboratory that conducted the analyses.

Response: See the DPTS-22 Report.

16. Provide details of the specific location of the discharge, including:
a. The latitude, longitude, datum, county, and state.

Response: Approximate coordinates: Lat. 47.977 degrees, Long. -102.475 degrees, Mountrail County, North Dakota

- b. The street address and city, if applicable.

Response: At the time of the incident, the facility did not have a formal address. The Pioneer Terminal facility address 3889 88th Avenue NW, New Town, ND 58763

- c. The township, range, quarter-sections and fractions for rural areas.

Response: T152N, R92W, Section 20, N1/2 of the NE Quarter

- d. Whether the discharge was in Indian country. If so, describe the land status (e.g. tribal trust, tribally owned fee, Indian allotment, non-Indian owned fee, non-Indian allotment).

Response: The spill was on non-Indian owned fee simple land.

17. Describe the pathway(s) of migration of the discharge from the specific source within the facility. Include diagrams and topographic or other maps.

Response: See the DPTS-22 Report.

18. **Did the substance that was discharged during the discharge reach or threaten any water (e.g., river, creek, intermittent stream, ditch, pond, lake, gully, mudflat, etc.) including any wetlands, marshes, or sewers, or the adjoining shoreline of any water. If it did:**

Response: Yes. See the DPTS-22 Report.

- a. **Describe the waterways reached or threatened, include their width and depth, whether water was present, the flow direction, the quantity of flow, and the condition (e.g., low, flooded, quiet, turbulent, etc.) at the time of discharge.**

Response: Storm water runoff from the city of New Town and other properties north of the facility collect and are directed through culverts that flow under Highway 23, the Canadian Pacific mainline, and the ladder tracks. The incident occurred during a heavy rainstorm. The dimensions and depth of the storm water flowing through what is normally an intermittent stream are not known. The DPTS-22 report includes some photographs that were taken during the response.

- b. **Describe the uses of the waterway (e.g., drinking water, agriculture, ranching, recreation, commerce, etc.).**

Response: The waterway is an intermittent stream fed by stormwater runoff from the north and adjacent properties. No uses of the waterway are known.

- c. **Describe the overland pathway(s) from the facility at which the discharge occurred to a drainage connecting to that water. Provide diagrams and topographic or other maps.**

Response: See Section 1.0 and figures in the DPTS-22 Report.

- d. **Describe the location of the water in relation to the equipment or vehicle from which the discharge originated (e.g. distance, direction, elevation).**

Response: See the figures in the DPTS-22 Report.

- e. **State the quantity of discharged oil or other pollutant that reached the water and how that amount was determined.**

Response: As noted in the DPTS-22 Report, a temporary basin was constructed on May 5, 2012 to contain flow in the swale between the tracks, absorbent boom was placed in the swale between the tracks to capture oil, and absorbent booms and plastic absorbents were placed down the slope from the tracks. Section 2.0 lists the amounts, weights, and volumes of contaminated media collected, removed, and disposed of during the response.

- f. **State the quantity of discharged oil or other pollutant that did not reach the water and how that amount was determined.**

Response: See the response to 18.e.

- g. Beginning from the point where the discharge reached the water to its confluence with an interstate water or navigable-in-fact water, identify the name and stream status (e.g., ephemeral, intermittent, perennial, etc.) of each stream segment between the discharge and that interstate or navigable-in-fact water.**

Response: Stormwater will flow off-site generally in a westerly then southerly direction and eventually to the north via a series of unnamed ditches, and eventually empty into the Missouri River System via Lake Sakakawea.

- h. Describe any film, sheen, discoloration, or iridescent appearance on the surface of any water or adjoining shorelines caused by the discharge. Identify the individual(s) making the observation, describe the time and location of the observation, and identify other individuals who were with the individual making the observation at the time of the observation.**

Response: See photos and report narrative in the DPTS-22 report.

- i. Describe any sludge or emulsion deposited on the adjoining shorelines or beneath the surface of the waters described above.**

Response: Not Applicable

- j. Indicate how long the discharged oil or other pollutant remained in or on the water, as well as on any adjoining shoreline.**

Response: During the due diligence work conducted by Pinnacle Engineering prior to the purchase of the Mountrail Williams Electrical Cooperative (MWEC) property by Dakota Plains, some residual soil contamination was discovered in a few non-vegetated low spots in the dry streambed. As discussed and provided in the DPTS-22 report, soil samples were collected, limited removal of stained soil was conducted, and confirmatory soil samples were collected.

- k. If the Company takes the position that any water impacted by the discharge is not a “navigable water” as defined in section 502(7) of the CWA, 33 U.S.C 1362(7), explain the basis for this position.**

Response: Not Applicable

- 19. Describe any damage as a result of the discharge and provide all documents that relate in any way to such damage:**

Response: See the DPTS-22 report. No reports of damage to animal life are known. The DPTS-22 report provides the records of field conditions at the time of the incident and when the limited soil assessment and removal was conducted on the MWEC property.

- a. To animal life – provide the number and species of injured or dead fish, birds, animals, insects, etc.**

Response: See above.

- b. To vegetation – describe how many feet, acres, or miles of land were affected, type of vegetation, crops, timber, forest, prairie grasses, scrub, etc.**

Response: See above.

- 20. List and describe any sensitive environments, wildlife habitats or refuges, endangered species, water wells, or drinking water intakes within 100 miles downstream of the location of the discharge. Describe the location and distance of each from the point of the discharge. With respect to the drinking water intakes in the area, provide the following information:**

Response: During the drafting of the FRP for the new facility, a review of sensitive areas and threatened/endangered species was performed for the FRP planning distance (23.1 miles). No water intakes on Lake Sakakawea exist within a 23 miles radius of the site. A search of the State Water Commission & Office of the State Engineer website showed 15 water permits for the Missouri River. Two of the permits are for rural water (Burleigh County) and one is for municipal use (Morton County); the remaining permits are for irrigation. All three locations are at more than 100 river miles downstream from the discharge point of the intermittent stream to Lake Sakakawea.

Van Hook State Wildlife Management Area is located approximately 12 miles north of the Missouri River channel at a point in the river approximately 31 miles downstream of the site.

Snake Creek National Wildlife Refuge and Audubon National Wildlife Refuge are located approximately 95 river miles downstream from the discharge point of the intermittent stream to Lake Sakakawea.

The threatened/endangered species review conducted for the FRP identified the following for Mountrail County: Piping Plover (threatened), Least Tern (endangered), Whooping Crane (endangered), Sprague's Pipit (candidate), Pallid Sturgeon (endangered), Gray Wolf (endangered), Dakota Skipper (candidate).

Eight deep wells (over 400 feet deep) are located within the 23 mile planning distance for the FRP. Three wells are owned by the City of New Town, one by Hardin Reynolds (private owner), one by Fort Berthold Community College, two by Dakota Plains, and one by Unimin Corporation.

- a. When did you notify the operator of those drinking water intakes of the discharge? Identify the individual that was notified and how the notification was provided. Provide all documents that relate in any way to such notification.**

Response: Dakota Plains does not know if operators of drinking water intakes were notified.

- b. If your notification to the operator of those drinking water intakes was not provided immediately after it was first suspected that the discharge may have occurred, describe the reason for the delay, and provide all documents related in any way to such delay.**

Response: See response to 20.a.

21. Provide the date and time the discharge was controlled.

- a. Describe the steps taken to control and clean up the discharge, including dates and times of each measure.**
- b. Describe steps taken to mitigate any environmental damage.**
- c. Describe the quantity, if any, of the spilled material that has remained in the environment.**
- d. Indicate when the Company considered any cleanup operations complete and when all discharged material was removed from the water and/or any adjoining shoreline.**

Response: a. – d. See the DPTS-22 report. For 21.a. and 21.b, see also the “TJMD Incident Reports” of Joshua Kirkaldie and Matt Dirck, TJMD staff who responded to assist in response.

e. Estimate the cost of all cleanup operations

Response: \$236,178

22. Was a dispersant, bioremediation agent or surfactant (Agent) used? If it was, provide the following:

Response: No dispersant, bioremediation agent or surfactant was used.

- a. Name of Agent(s) that was applied.**
- b. The latitude, longitude, and datum of each location where the Agent was applied and/or provide a map indicating the locations of all applications.**
- c. The method of application and proportions of the Agent applied.**
- d. The name of the individual who applied the Agent and his or her relationship to the owner and operator of the facility from which the discharge occurred.**
- e. If the Company received permission from a federal On-Scene Coordinator before the application of any Agent, provide the name of the individual who provided this permission and the date on which it was provided.**

23. Describe the cause (e.g., equipment failure, operator error, inadequate procedures or maintenance, etc.) of the discharge.

Response: See Section 1.0 of the DPTS-22 report and the Environmental Incident Report.

a. Describe events leading up to the discharge

Response: See the TJMD Incident Report by John Cuny.

b. Describe any measures taken to prevent any future discharges from this source.

Response: The ladder tracks are no longer used for transloading of crude oil from truck to railcar.

c. Describe any follow-up procedures or inspections following the incident.

Response: None known by Dakota Plains.

- 24. Identify each individual (including name, title, business phone number, and business address) who was present at any time from the beginning of the discharge to the completion of cleanup or related follow-up work. For each individual, describe what he or she did during that time period that related in any way to the discharge (e.g., assessing the discharge, initiating spill response, supervising the cleanup, etc.).**

Response: See the TJMD Incident Reports and also DPTS-22 Report.

- 25. Identify any additional individual(s) including name, title, business phone number, and business address, who may have knowledge of the facts surrounding the discharge.**

Response: Neil Plug - World Fuels Services 786-449-0432 or 305-351-4996

- 26. List the federal, state, tribal, and/or local agencies to which the discharge was reported. State the date and time of the notification and identify the official contracted. Include any identifying numbers (e.g., NRC number, spill number, etc.) assigned by the agency to the discharge. For any notifications that were not provided immediately after the time you had knowledge of the discharge, describe why such notifications were delayed.**

Response: See the Spill Notification Report in Attachment B. This is a TJMD document. Dakota Plains does not have the contact information for the callers identified in the report. Dakota Plains does not know who notified the NRC and does not know who else may have been notified.

- 27. Describe any fines assessed or orders issued in conjunction with the discharge by any government entity. Identify the name of each entity assessing any such penalty or order, amount of the fines, the date each penalty or order was assessed or issued, and provide all documents related to such assessment or order.**

Response: No fines have been assessed nor have any orders been issued by a government entity. The DPTS-22 report was submitted to Edmund Baker, the Environmental Director of the Three Affiliated Tribes in April 2014.

28. Describe any other discharges from the facility within the past five years.

a. State the type of all substances discharged, including the chemical name, formula, and specific gravity. If the material discharged was a mixture, please give the percentages of substances in the mixture or solution. Use the following format:

<u>Date</u>	<u>Substance</u>	<u>Source</u>	<u>Quantity</u>	<u>Waterway Affected/Threatened</u>	<u>Cause</u>
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Response: There were other spills of crude oil during transloading on the ladder tracks that were cleaned up and reported to the Three Affiliated Tribes, but none are known to have caused discharges of crude oil to the intermittent stormwater drainage system.

b. Describe any measures taken to prevent or mitigate future discharges from the facility following the discharges listed above, and provide all documents related to such measures.

Response: In the 2013 expansion into the Pioneer Terminal, a \$56 million investment, Dakota Plains took great strides to design into and implement spill prevention and mitigation. The truck unloading area, tank storage farm, and rail loadout building are all equipped with secondary containment systems designed with sized containment (largest container). Dakota Plains also has SPCC and FRP plans in place.

29. List any applicable EPA, State, County, or local governmental identification or permit numbers (e.g., NPDES, RCRA, Oil and Gas Commission, etc.) applicable to the facility at which the discharge occurred, using the following format:

<u>Number</u>	<u>Facility/Unit Assigned To</u>	<u>Issuing Agency</u>	<u>Date Issued</u>
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Response: No permits from U.S. EPA, State of North Dakota, Mountrail County, City of New Town, or Three Affiliated Tribes were required of the facility at the time of the DPTS-22 release.

30. Provide any additional pertinent information, (e.g., documents, reports, photographs, etc.), that you have related to the discharge and the facility from which the discharge occurred. Please submit color photographs, or color photocopies of photos. If you have any of the following documents in your possession, submit copies of those documents:

- a. USGS topographic maps (of the facility and of the discharge);
- b. Geographic Information Systems (GIS) maps or data;
- c. Aerial photography, both current and historical;
- d. Hydrologic flow and fate of transport models;
- e. Wetland and stream functional models;
- f. Stream profiles and culvert sizes;

g. Stream gauge data; and

h. Precipitation records

Response: Pertinent information is found in the DPTS-22 Report.

- 31. State and local aboveground and underground oil storage capacities at any oil storage facility associated with the discharge. State the total capacity, not the actual amount stored.**

Response: No underground storage tanks and no fixed above ground storage tanks were located at the ladder track area.

- 32. Is the facility from which the discharge occurred subject to a Spill Prevention Control and Countermeasure (SPCC) plan, as described by 40 C.F.R. part 112? If yes, provide a copy of the SPCC plan. If the SPCC plan has already been submitted to the EPA, indicate when and to whom.**

Response: The truck to railcar transloading operation conducted at the ladder track area was not subject to the SPCC rule requirements. The "new" Pioneer Terminal operations south of the ladder tracks are subject to an SPCC plan, which is in place.

- 33. Does the facility from which the discharge occurred have a Facility Response Plan (FRP), as described in 40 C.F.R. part 112? If yes:**

Response: The truck to railcar transloading operation conducted at the ladder track area was not subject to the FRP rule requirements. The "new" Pioneer Terminal operations south of the ladder tracks are subject to an FRP, which is in place.

a. Provide a copy of the Certification of Substantial Harm and the relevant planning distance calculation.

b. If a copy of the FRP has been submitted to the EPA, provide the FRP number and the date it was submitted to the EPA.

c. Provide the FRP approval date.

- 34. What was the age of the facility from which the discharge occurred at the time of the discharge? If you do not know the answer to this question, identifying all persons who may have any information that may assist the EPA in determining the age of the facility.**

Response: In August 2010 operations began at the ladder tracks. The tracks where the incident occurred were constructed in spring/summer of 2011.

35. Describe any inspections of the facility where the discharge occurred that the Company or any entity hired by the Company conducted at any time in the year prior to the discharge.

a. Describe the inspection results.

Response: TJMD would be responsible to inspect the facility. No records have been discoverable. Dakota Plains is not aware if TJMD is still in business.

b. Provide any applicable inspection reports.

Response: No records have been discoverable. Dakota Plains is not aware if TJMD is still in business.

36. Describe any and all maintenance, repair, or other work performed on the facility from which the discharge occurred during the year prior to the discharge.

Response: None known.

a. Provide any maintenance plans in effect for the equipment and/or vehicle from which the discharge occurred during the year prior to the discharge.

Response: Dakota Plains does not have any information related to the railcar or to the truck owned by Hofmann Trucking.

b. Provide any maintenance, repair or similar reports written for the equipment and/or vehicle from which the discharge occurred during the year prior to the discharge.

Response: Dakota Plains does not have any information related to the railcar or to the truck owned by Hofmann Trucking.

Response to Request for Information Pursuant to Section 308 of the Clean Water Act

Statement of Certification

I certify under penalty of law that this response and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.



01-25-16

Signature

Date

Gabriel G. Claypool

Printed Name

President & Chief Operating Officer

Official Title

